

AT-138/EJ-125

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: 325919 NAME: Natasha S. Fedder FIRM NAME: Scale LLP STREET ADDRESS: 315 Montgomery Street, 10th Floor CITY: San Francisco STATE: CA ZIP CODE: 94104 TELEPHONE NO.: 415-735-5933 FAX NO.: _____ EMAIL ADDRESS: nfedder@scalefirm.com ATTORNEY FOR (name): Empower Retirement, LLC	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF U.S.D.C. EASTERN DISTRICT OF CAL.</b> STREET ADDRESS: Robert T. Matsui United States Courthouse, 501 I Street MAILING ADDRESS: 501 I Street Suite 4-200 CITY AND ZIP CODE: Sacramento, CA 95814 BRANCH NAME: Sacramento Division	
PLAINTIFF/PETITIONER: Empower Retirement, LLC DEFENDANT/RESPONDENT: Joseph R. Diaz	
<b>APPLICATION AND ORDER FOR APPEARANCE AND EXAMINATION</b> <input checked="" type="checkbox"/> <b>ENFORCEMENT OF JUDGMENT</b> <input type="checkbox"/> <b>ATTACHMENT (Third Person)</b> <input checked="" type="checkbox"/> Judgment Debtor or <input type="checkbox"/> Third Person	
CASE NUMBER: 2:22-cv-00489-KJM-CKD	

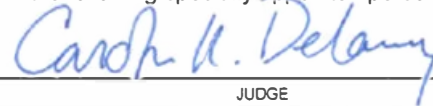
**ORDER TO APPEAR FOR EXAMINATION**

1. TO (name): Joseph R. Diaz
2. YOU ARE ORDERED TO APPEAR personally before this court, or before a referee appointed by the court, to
  - a. ☒ furnish information to aid in enforcement of a money judgment against you.
  - b. ☐ answer concerning property of the judgment debtor in your possession or control or concerning a debt you owe the judgment debtor.
  - c. ☐ answer concerning property of the defendant in your possession or control or concerning a debt you owe the defendant that is subject to attachment.

Date: November 14, 2023	Time: 10:00 a.m.	Dept. or Div.: Sacramento	Rm.: Courtroom 24
Address of court <input checked="" type="checkbox"/> is shown above <input type="checkbox"/> is:			

3. This order may be served by a sheriff, marshal, registered process server, or the following specially appointed person (name):

Date: 10/11/2023



JUDGE

**This order must be served not less than 10 days before the date set for the examination.**
**IMPORTANT NOTICES ON PAGES 2 AND 3****APPLICATION FOR ORDER TO APPEAR FOR EXAMINATION**

4. ☒ Original judgment creditor ☐ Assignee of record ☐ Plaintiff who has a right to attach order  
 applies for an order requiring (name): Joseph R. Diaz  
 to appear and furnish information to aid in enforcement of the money judgment or to answer concerning property or debt.
5. The person to be examined is
  - a. ☒ the judgment debtor.
  - b. ☐ a third person (1) who has possession or control of property belonging to the judgment debtor or the defendant or (2) who owes the judgment debtor or the defendant more than \$250. An affidavit supporting this application under Code of Civil Procedure section 491.110 or 708.120 is attached.
6. The person to be examined resides or has a place of business in this county or within 150 miles of the place of examination.
7. ☐ This court is **not** the court in which the money judgment is entered or (attachment only) the court that issued the writ of attachment. An affidavit supporting an application under Code of Civil Procedure section 491.150 or 708.160 is attached.
8. ☐ The judgment debtor has been examined within the past 120 days. An affidavit showing good cause for another examination is attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: August 31, 2023

 Natasha S. Fedder  
 (TYPE OR PRINT NAME)


  
 (SIGNATURE OF DECLARANT)

(Continued on pages 2 and 3)

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**Information for Judgment Creditor Regarding Service**

If you want to be able to ask the court to enforce the order on the judgment debtor or any third party, you must have a copy of the order personally served on the judgment debtor by a sheriff, marshal, registered process server, or the person appointed in item 3 of the order at least 10 calendar days before the date of the hearing, and have a proof of service filed with the court.

**IMPORTANT NOTICES ABOUT THE ORDER****APPEARANCE OF JUDGMENT DEBTOR (ENFORCEMENT OF JUDGMENT)**

**NOTICE TO JUDGMENT DEBTOR** If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the judgment creditor in this proceeding.

**APPEARANCE OF A THIRD PERSON (ENFORCEMENT OF JUDGMENT)**

**NOTICE TO PERSON SERVED** If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the judgment creditor in this proceeding.

**NOTICE TO JUDGMENT DEBTOR** The person in whose favor the judgment was entered in this action claims that the person to be examined under this order has possession or control of property that is yours or owes you a debt. This property or debt is as follows (*describe the property or debt*):

If you claim that all or any portion of this property or debt is exempt from enforcement of the money judgment, you must file your exemption claim in writing with the court and have a copy personally served on the judgment creditor not later than three days before the date set for the examination. You must appear at the time and place set for the examination to establish your claim of exemption or your exemption may be waived.

**APPEARANCE OF A THIRD PERSON (ATTACHMENT)**

**NOTICE TO PERSON SERVED** If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the plaintiff in this proceeding.

**APPEARANCE OF A CORPORATION, PARTNERSHIP,  
ASSOCIATION, TRUST, LIMITED LIABILITY COMPANY, OR OTHER ORGANIZATION**

If the order to appear for the examination on page 1 does not require the appearance of a specified individual:

- The organization has a duty to designate one or more of the following to appear and be examined: officers, directors, managing agents, or other persons who are familiar with the organization's property and debts.
- Failure to designate such a person familiar with the organization's property and debts to appear for examination will result in the order to appear for the examination to be deemed to have been made to, and require the appearance of, the following:
  - If the organization is a corporation registered with the Secretary of State, a natural person named as the chief financial officer in the corporation's most recent filing with the Secretary of State. If no one is so named, a natural person named as the chief executive officer in the corporation's most recent filing with the Secretary of State. If no one is so named, a natural person named as the secretary in the corporation's most recent filing with the Secretary of State.
  - If the organization is a limited liability company registered with the Secretary of State, the first natural person named as a manager or member in the limited liability company's most recent filing with the Secretary of State.
  - If the organization is a limited partnership registered with the Secretary of State, the first natural person named as a general partner in the limited partnership's most recent filing with the Secretary of State.
  - If the organization is not registered with the Secretary of State or the organization's filings with the Secretary of State do not identify a natural person as described above, a natural person identified by the judgment creditor as being familiar with the property and debts of the organization, together with an affidavit or declaration signed by the judgment creditor that sets forth the factual basis for the identification of the individual. The affidavit or declaration shall be served on the organization together with the order.
- Service of an order to appear for an examination upon an organization by any method permitted under the Code of Civil Procedure or the Corporations Code, including service on the agent of the organization for service of process, shall be deemed effective service of the order to appear upon the individuals identified above.



**Request for Accommodations.** Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least 5 days before your hearing. Contact the clerk's office for *Disability Accommodation Request* (form MC-410). (Civil Code, § 54.8.)